IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF MARCH
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE SRI JUSTICE BILAL NAZKI

and
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION No.6087 of 2006

Between:

1.B.Pradip Kumar and 2 others.

..... PETITIONERS

AND

The Deputy Commercial Tax Officer,

Warangal.

.....RESPONDENT

ORDER: ***(Per Hon'ble Sri Justice Bilal Nazki,)***

Notice dated 04-03-2005 issued under the Andhra Pradesh Revenue Recovery Act, 1864, (for short 'the Act') is under challenge in this Writ Petition.

The petitioners claim that the property, which is sought to be sold, belongs to their mother and is inherited from her after her death. The father of the petitioners was guarrantor for an assessee, and the property now sought to be sold was not the property, which was given by way of security by their father, who was the surety.

The case of the respondent is that he is proceeding against the assessees but not the sureties.

These are the questions, which this Court will find difficult to decide in Writ proceedings because it involves disputed questions of fact. The petitioners have an efficacious remedy by way of a suit in terms of Section 17 of the Act.

Therefore, we decline to entertain this Writ Petition and dismiss the same. However, the petitioners are at liberty to challenge the impugned notice by way of a suit. For this purpose, we grant him stay for a period of two weeks. No costs.

(Bilal Nazki, J)

3RD March, 2006

(G.Chandraiah, J)

Note:

Furnish CC

in two days.

B/o

LUR